

Probate and Family Court
Standing Order 2 – 20, as amended April 6, 2020
Court Operations Under the Exigent Circumstances Created by COVID-19

Due to the extreme risk of person to person transmission caused by the 2019 novel Coronavirus “COVID-19”, which has been declared a pandemic by the World Health Organization and which has occasioned the declaration of a State of Emergency in the Commonwealth of Massachusetts, Executive Order No. 591: Declaration of a State of Emergency to Respond to COVID-19, and a National Emergency by the President of the United States, and Supreme Judicial Court Order OE-144, I hereby invoke the authority granted to me by G. L. c. 211B, § 10 to promulgate this Standing Order to protect the public health by reducing the risk of exposure to the virus and slowing the spread of the disease.

To maintain consistency among the Divisions of the Probate and Family Court, this Standing Order shall supersede any administrative or scheduling protocols previously instituted by any Division of the Probate and Family Court in response to the COVID-19 virus, as well as Standing Order 1 – 20.

It is hereby ORDERED, effective April 6, 2020, that between the normal business hours of 8:30 a.m. and 4:30 p.m. the divisions of the Probate and Family Court shall operate subject to the following temporary, emergency conditions. Until at least May 4, 2020, the Probate and Family Court shall remain open solely to address emergency matters that cannot be resolved virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system), either because it is not practicable or would be inconsistent with the protection of constitutional rights. The Registry shall continue to conduct court business, i.e., to accept the filing of pleadings and other documents in emergency matters, to schedule and facilitate hearings in emergency matters, to issue orders in emergency matters, to answer questions from attorneys, litigants, and the general public, and to conduct other necessary business of the respective court. All such business will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished virtually. Emergency matters are included in Section B, Section C (3), Section E, and Section F (1), (2), and (3) of this Standing Order. Apart from the exception stated in Section C (2), entry into the courthouse for the purpose of emergency in-person proceedings shall be limited to attorneys, parties, witnesses, and other necessary persons as determined by the assigned judge, plus not more than three members of the “news media” as defined in Supreme Judicial Court Rule 1:19(2).

A. Telephonic/Videoconference/“Virtual” Hearings

Whenever practical and possible, the Court shall conduct hearings by telephone or videoconference rather than having people appear in person or rescheduling event dates.

B. Restraining Orders Pursuant to G. L. c. 209A/Orders to Vacate Pursuant to G. L. c. 208, § 34B

1. All restraining order requests and requests for orders to vacate are deemed emergency matters and their initial return dates, including return dates when notice has not been accomplished, shall be heard by telephone or videoconference.

2. All emergency protection orders (G. L. c. 209A; G. L. c. 208, § 34B) issued at a hearing after notice prior to the issuance of this Standing Order and that are due to expire on or after March 16, 2020 shall remain in effect until the matter is rescheduled and heard by the Probate and Family Court.
3. Any protection orders (G. L. c. 209A; G. L. c. 208, § 34B) issued at a hearing after notice during the pendency of this Standing Order which were not heard in person may be issued only until such date at which the court can schedule an in-person hearing.

C. Specific Case Types and Events

1. All scheduled case events shall be continued to a date after May 4, 2020 unless otherwise identified in Section B and Section E.
2. Trials that have not yet begun will be continued beyond May 4, 2020, unless the trial may be conducted otherwise than in-person by agreement of the parties and of the court. Where a trial has commenced, the determination whether the trial shall proceed, and how, is left to the sound discretion of the trial judge, in consultation with the Chief Justice of the Probate and Family Court. If a pending trial is to proceed, it shall be deemed an emergency matter and attendance at such trials shall be limited to the necessary persons identified above, plus no more than ten members of the general public or “news media,” who shall be admitted on a first come, first serve basis and who shall sit no closer than six feet to each other or any other person.
3. Upon a showing of exceptional/exigent circumstances, a party whose trial or evidentiary hearing is postponed by this Standing Order may seek an exception from this Standing Order by motion which shall be heard on the pleadings or telephonically. No exception shall be granted except with the approval of the assigned judge and the Chief Justice of the Probate and Family Court.
4. Where a trial or any evidentiary hearing is postponed as a result of this Standing Order, the parties may seek a conference with the court to address matters arising from the postponement, which shall be conducted by telephone or videoconference.

D. New Filings

Except where matters are deemed essential and necessitate court action, parties shall file new matters by mail, email, or e-filing where available. Filings will be docketed, but no event shall be scheduled before May 5, 2020.

E. Emergency Case Types/Events

Emergency situations not addressed below or in Section B above will be considered on a case-by-case basis. If a person arrives at the courthouse with a matter they deem an emergency, that matter shall be brought to a Judicial Case Manager, an Assistant Judicial

Case Manager, an Assistant Register, a Magistrate, or other designated staff member to determine whether the matter is an emergency or whether the person can be helped in another way.

The below actions/case types have been identified as emergency matters and may be filed and shall be heard, unless the Court requires notice:

1. Petitions/motions seeking a Do Not Resuscitate/Do Not Intubate/Comfort Measures Only (DNR/DNI/CMO) order, authorization for medical treatment order, or order for antipsychotic medication;
2. Petitions seeking appointment of a temporary guardian or conservator;
3. Petitions pursuant to G. L. c. 19A, § 7 and G. L. c. 19C, § 20 – protective services;
4. Health Care Proxy actions;
5. Petitions/Motions for Appointment of Special Personal Representative;
6. Petitions for marriage without delay;
7. Complaints for Dependency (SIJS) if the child will turn 21 prior to May 5, 2020;
8. All requests for injunctive relief;
9. Motions for temporary orders where exceptional/exigent circumstances have been demonstrated; and
10. Contempt actions where exceptional/exigent circumstances have been demonstrated.

F. Extension of Orders

1. Sua sponte custody orders to the Department of Children and Families pursuant to G. L. c. 119A, § 23 (a) (3) that expire between March 18, 2020 and May 4, 2020 will be administratively extended for 45 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a demonstration of exigent circumstances. The request may be decided on the pleadings.
2. Treatment plan orders that expire between March 18, 2020 and May 4, 2020 will be administratively extended for 60 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a demonstration of exigent circumstances. The request may be decided on the pleadings.
3. Temporary orders of appointment in guardianship and conservator cases that expire between March 18, 2020 and May 4, 2020 will be administratively extended for 60 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a demonstration of exigent circumstances. The request may be decided on the pleadings.
4. All orders that were issued prior to this Standing Order and after an adversarial hearing (or the opportunity for an adversarial hearing) that are due to expire prior to May 4, 2020, shall remain in effect until the matter is rescheduled and heard.

G. This Standing Order does not affect the Probate and Family Court's ability to consider matters that can be resolved without in-person proceedings through communication by telephone, videoconferencing, email, or other comparable means.

H. Programs

1. Parent Education requirements are governed by Temporary Amendment to Standing Order 2-16: Parent Education Program Attendance.
2. Lawyer of the Day programs will not be held until after May 4, 2020, unless done remotely.
3. Any person who was been ordered to perform community service shall not have to perform such community service until after May 4, 2020.

I. Amendment and Extension of Standing Order 2 – 20, as amended April 6, 2020

The Probate and Family Court will amend, allow to expire, or extend this Standing Order no later than May 4, 2020.

April 3, 2020

Dated

/s/ John D. Casey

John D. Casey

Chief Justice

Probate and Family Court